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July 11, 2008

### VIA EMAIL

Ahren C. Hoffman Morgan Lewis & Bockius LLP 2 Palo Alto Square 3000 El Camino Real Palo Alto, CA 94306

Re:

Alpha & Omega Semiconductor, Ltd. v. Fairchild Semiconductor Corp. Case No. C 07-2638 JSW (consolidated with Case No. C 07-2664 JSW) Our File No. 18865P-021600

### Dear Ahren:

I write in response to your July 3, 2008, letter regarding AOS's production of technical documents.

## I. DEFICIENCIES IN AOS'S DOCUMENT PRODUCTION

## A. Process Recipes

AOS has stonewalled Fairchild's efforts to obtain AOS's process recipes for far too long. Fairchild initially requested the process recipes before the litigation even commenced. AOS, however, refused to produce them at that time. Fairchild then sought the recipes through discovery once the litigation started, by formally requested them almost a year ago. See Fairchild's First Set of RPDs at Request No. 2 ("All documents describing any aspect of the process of manufacture of any accused product, including without limitation process, flows, process travelers and process recipes."). Once again, AOS refused to produce the documents. In an effort to resolve the dispute, Fairchild has conferred with AOS regarding this issue and explained repeatedly why the information is necessary. See Jacobs email to Schuman dated February 2, 2008 ("As we discussed, we will need the process flow and recipe information for each unique process AOS identified in its list produced on January 22."). Despite these efforts, AOS has failed to produce the recipes.

Now, AOS contends the our request for recipes is "vague" and needs "clarification." This is absurd. The term "recipe" is well-known in the field, and AOS plainly knows what it means. In fact, AOS has used the term throughout this litigation in its effort to obtain discovery from

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July 11, 2008 Page 2

Fairchild. See, e.g., AOS's First Set of RPDs at Request No. 12 ("All documents and things describing any Accused Fairchild Device, including the recipes . . . ."); AOS's Motion to Compel (Dkt No. 71) at 6 ("In the meet and confer, Fairchild's counsel stated that it would be unduly burdensome for Fairchild to produce even the process flows and recipes for the products encompassed by AOS's proposed definition."). As AOS is aware, a "recipe" contains parameters for a process used to manufacture a product, and may include information such as temperature, time, gas flows, or other parameters. An example of a recipe can be found within AOS's own document production. See AOS\_F00008500. AOS must produce all recipes for all AOS products.

### B. Simulations

AOS has produced virtually no documents relating to simulations of its products. These are highly relevant documents. We therefore request that AOS produce all documents relating to simulations of its products, including:

- coefficient files
- input command files
- mask files
- structure boundary files
- measured doping files used as input
- structure, doping, and/or grid output files
- simulated electrical data

### C. Other Documents AOS Has Not Produced

In addition to the categories of documents described above, AOS has failed to produce the following documents:

- scanning electron microscopy (SEM) images
- scanning capacitance microscopy (SCM) images
- scanning resistance profiles (SRP)
- secondary ion mass spectroscopy (SIMS) data
- electrical breakdown current-voltage characteristics data

**TOWNSEND** TOWNSEND and CREW

July 11, 2008 Page 3

- operational transistor current-voltage characteristics data
- in-line data
- data upon which the charts in AOS's product datasheets are based
- unclamped inductive switching data
- substrate specifications

The above documents must be produced for every AOS product.

#### D. **Documents Relating to Additional AOS Products**

As we explained in prior correspondence, AOS's web site refers to additional AOS products for which AOS has not provided any discovery. In your July 3, 2008, letter to me, you state that AOS will begin producing some documents for these products this week, but you fail to provide a date by which the production will be completed. AOS must immediately produce process flows, GDS files, process recipes, and other technical documents described above corresponding to all of the additional products.

AOS must produce the documents described above, or confirm that they do not exist, by July 18. If AOS fails to do so, we will file a motion to compel and seek all appropriate relief.

#### **GROUPINGS OF AOS PRODUCTS** II.

We have been attempting to develop groupings of AOS products to minimize the discovery burden on the parties. As we explained months ago, however, we need process recipes for the AOS products to enable us to potentially do this. See Jacobs email to Schuman dated February 2, 2008. Consequently, AOS's failure to produce the recipes has hindered our ability to propose appropriate groupings. We will continue to work on this once AOS produces additional documents. As an alternative, we suggest that AOS propose groupings of its own products, in the same way that Fairchild has already done for its products. This would be a more efficient approach given that AOS has far more information about its products than Fairchild. Let us know if AOS will do so.

Very truly yours,

/s/ Matthew R. Hulse Morgan, Lewis & Bockius LLP 2 Palo Alto Square 3000 El Camino Real, Suite 700 Palo Alto, CA. 94306-2122 Tel. 650.843.4000 Fax: 650.843.4001 www.morganlewis.com Morgan Lewis

Ahren C. Hoffman Associate 650:843.7250 ahoffman@morganlewis.com

July 3, 2008

## VIA E-MAIL (via email: mrhulse@townsend.com)

Matthew R. Hulse, Esq.
Townsend and Townsend and Crew LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

Re: Alpha & Omega Semiconductor, Ltd. et al. v Fairchild Semiconductor Corp. Case No. C 07-2638 JSW (consolidated with Case No. C 07-2664 JSW)

### Dear Matt:

I write in response to your letter dated June 27, 2008 regarding the production of AOS's technical information.

First, AOS remains disappointed by Fairchild's lack of cooperation in moving discovery forward on the basis of representative parts. AOS provided information regarding its products many months ago. Fairchild has had more than ample time to analyze that information and propose "representative product" groupings for those products. The fact that new AOS products may have come to market since the litigation commenced is irrelevant to—and in no way obviates—Fairchild's obligation to propose groupings that will reduce AOS's discovery burdens.

Second, your letter demands "process recipes" for AOS's products. Again, AOS produced long ago the process flows, GDS files, and epitaxial layer specifications for its products. Fairchild, significantly, has never complained that this information, taken together, is insufficient to describe the structure and composition of AOS's products. Moreover, in light of the information contained within AOS's process flows, AOS does not understand Fairchild's vague request for "process recipes." AOS needs clarification before it can respond further.

Matthew R. Hulse, Esq. July 3, 2008 Page 2



Finally, with respect to Fairchild's demand for information on new AOS products, AOS will begin producing process flows, GDS files, and epitaxial layer specification for these products next week. Note that at least some of AOS's new products are unrelated to the present litigation, since they are not made by the same processes accused of infringing Fairchild's asserted patents.

Yours sincerely/

Ahren C. Hoffman

cc: Eric P. Jacobs, Esq. (via email: epjacobs@townsend.com)

Leonard J. Augustine, Jr., Esq. (via email: ljaugustine@townsend.com)

Igor Shoiket, Esq. (via email: ishoiket@townsend.com) Priya Sreenivasan, Esq. (psreenivasan@townsend.com)

----Original Message----

From:

Hulse, Matthew R

Sent:

Wednesday, July 16, 2008 6:11 PM

To: 'bschuman@morganlewis.com'; 'awu@morganlewis.com'; 'rtautkus@morganlewis.com'; 'aspicer@morganlewis.com';

'ahoffman@morganlewis.com'; 'hdoscher@morganlewis.com'; 'dsanker@morganlewis.com'; 'rwilkins@morganlewis.com';

'tmajidian@morganlewis.com'

Subject:

AOS v. Fairchild

### Counsel:

In our telephone call today, I attempted to discuss the topics addressed in my July 11, 2008, letter to Ahren Hoffman regarding deficiencies in AOS's document production. The four lawyers for AOS who were on the call were unwilling to discuss the issues in detail, on the grounds that another lawyer at your firm was more knowledgeable. In view of the upcoming depositions in this case, we need to resolve these document production issues as soon as possible. Please let me know when an appropriate lawyer for AOS is available within the next two days to discuss these issues. If we do not resolve them by this Friday, Fairchild will file a motion to compel next week.

### Matt

Matthew R. Hulse Townsend and Townsend and Crew LLP Two Embarcadero Center, 8th Floor San Francisco, CA 94111 mrhulse@townsend.com Direct; 415,273,7511

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---- Original Message -----

From: Brett M. Schuman <bschuman@morganlewis.com>

To: Hulse, Matthew R; Andrew J. Wu <awu@morganlewis.com>; Rita E. Tautkus <rtautkus@morganlewis.com>; Amy M. Spicer <aspicer@morganlewis.com>; Ahren C. Hoffman <ahoffman@morganlewis.com>; Harry F. Doscher <hdoscher@morganlewis.com>; David V. Sanker <dsanker@morganlewis.com>; Randy A. Wilkins <rwilkins@morganlewis.com>; Trish M. Majidian <tmajidian@morganlewis.com>

Cc: Daniel Johnson Jr. <djjohnson@morganlewis.com>

Sent: Wed Jul 16 19:02:03 2008 Subject: Re: AOS v. Fairchild

Matt,

That was a nice, self-serving - but unfortunately grossly incomplete and inaccurrate - email purporting to summarize our conference call this afternoon.

Fairchild proposed many months ago that we proceed with discovery in this case on the basis of select "representative parts." The express purpose of that proposal was to eliminate the need for each party to produce complete discovery regarding all of its potentially accused products. But Fairchild has consistently refused to agree to any deliniation of AOS representative parts, instead - since February - claiming it needs complete discovery, eg, process flows, recipes, GDS files, and more - for ALL 300 + AOS trench MOSFET products BEFORE it can agree to identify any representative AOS parts. What benefit does AOS get from Fairchild's "representative parts" proposal as Townsend/Fairchild is presently implementing it?

As we promised on today's call, we will get you a prompt response to the issues you raised on the call.

Please be sure to include this response with any motion to compel.

Brett

Sent from my BlackBerry Handheld.

---- Original Message -----

From: "Hulse, Matthew R" [mrhulse@townsend.com]

Sent: 07/16/2008 06:11 PM MST

To: Brett Schuman; Andrew Wu; Rita Tautkus; Amy Spicer; Ahren Hoffman; Harry Doscher; David Sanker; Randy Wilkins; Trish Majidian

Subject: AOS v. Fairchild

### Counsel:

In our telephone call today, I attempted to discuss the topics addressed in my July 11, 2008, letter to Ahren Hoffman regarding deficiencies in AOS's document production. The four lawyers for AOS who were on the call were unwilling to discuss the issues in detail, on the grounds that another lawyer at your firm was more knowledgeable. In view of the

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### Matt

Matthew R. Hulse Townsend and Townsend and Crew LLP Two Embarcadero Center, 8th Floor San Francisco, CA 94111 mrhulse@townsend.com Direct: 415.273.7511

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